

Fire Service Labor/Management Relations

**Student Supplement
August 2017**



California Department of Forestry and Fire Protection
Office of the State Fire Marshal
State Fire Training

Fire Service Labor/Management Relations Student Supplement

Table of Contents

Activity 2-2: Fire Service Labor/Management History	4
Activity 3-1: Labor/Management Stakeholders	6
Activity 4-1: Management Roles and Responsibilities	7
Activity 4-2: Labor Roles and Responsibilities	7
Legislation (Rights and Restrictions).....	10
Labor Laws.....	10
Railway Labor Act (1926).....	10
National Labor Relations Act (1935)	10
Taft-Hartley Act (1947).....	11
Labor Management Reporting and Disclosure Act (1959)	12
Meyers-Milius-Brown Act (1968)	12
Ralph C. Dills Act (1977)	13
Garrity Rights.....	13
Weingarten Rights.....	14
Skelly Rights.....	14
Loudermill Rights.....	14
Lybarger Rights.....	15
Spielbauer Rights.....	15
Firefighter Procedural Bill of Rights (2007)	16
Employment Equality Laws.....	17
Fair Labor Standards Act (1938).....	17
Equal Pay Act (1963)	17
Civil Rights Act (1964).....	18
Americans with Disabilities Act (1990).....	19
Fair Employment and Housing Act (1959)	19
Employment Benefit Laws	20
Family Medical Leave Act (1993)	20
Health Insurance Portability and Accountability Act (1996)	21
Affordable Care Act (2010).....	21
California Public Employees Pension Reform Act (2013)	21
Additional Laws	24
United States Constitutional Amendments (1791-present)	24
Freedom of Information Act (1966)	25
California Penal Code (1872).....	26
Administrative Procedures Act (1945)	27
California Public Records Act (1968)	27
Activity 5-1: Labor Laws	29

Fire Service Labor/Management Relations

Table of Contents

Activity 6-1: Contract Comparison.....	30
Sample Grievance Information Form.....	32
Sample Grievance Form.....	33
Activity 7-2: Individual Action Plan	34
Reference and Source Materials.....	36

Cover photo courtesy of International Association of Fire Fighters (IAFF) Local 1230.

Activity 2-2: Fire Service Labor/Management History

Format: Small Group

Time Frame: 0:30

Description

This activity provides students with an opportunity to research key events in fire service labor/management history.

Instructions

1. Using Internet research, identify key elements of the historical events assigned.
2. Share your findings with the group.

Event/Era	
Early era fire fighter work environment (pre-1900s)	
What happened?	Why is it important?
International Association of Fire Chiefs (IAFC) established (1873)	
What happened?	Why is it important?
First fire fighter unions formed (1903)	
What happened?	Why is it important?

Fire Service Labor/Management Relations

Activity 2-2

International Association of Fire Fighters (IAFF) established (1918)	
What happened?	Why is it important?
California State Firefighters' Association (CSFA) established (1922)	
What happened?	Why is it important?
California Professional Firefighters (CPF) established (1938)	
What happened?	Why is it important?
Public Safety Office Benefit Act (1976)	
What happened?	Why is it important?
Fire Fighter Bill of Rights (FFBOR) established (2007)	
What happened?	Why is it important?

Activity 3-1: Labor/Management Stakeholders

Format: Small Group

Time Frame: 0:45

Description

This activity provides students with an opportunity to identify stakeholders in the fire service labor/management partnership.

Instructions

1. In your group, brainstorm a list of labor/management stakeholders.
2. Document your list on Post-It paper and share with group.
3. Fill in any additional stakeholders as groups share their findings.

Potential Stakeholder Categories

- Management groups
- Labor groups
- Elected officials
- Health and safety organizations
- Government departments or agencies
- Boards and organizations
- Community members

Activity 4-1: Management Roles and Responsibilities

Format: Individual/Small Group

Time Frame: 0:15

Description

This activity provides students with an opportunity to identify the management “chain of command” within their organization.

Instructions

1. Using the chart on the following page, identify the individuals and entities/organizations in your management chain of command.

Potential People in Management Chain

- Governor
- State Legislators (senate / assembly)
- Board of supervisors
- Fire board
- City/town council
- City/town manager
- Fire chief
- Assistant chief / deputy chief / division chief
- Battalion chief
- Captain / lieutenant

Activity 4-2: Labor Roles and Responsibilities

Format: Individual/Small Group

Time Frame: 0:15

Description

This activity provides students with an opportunity to identify the labor “chain of command” within their organization.

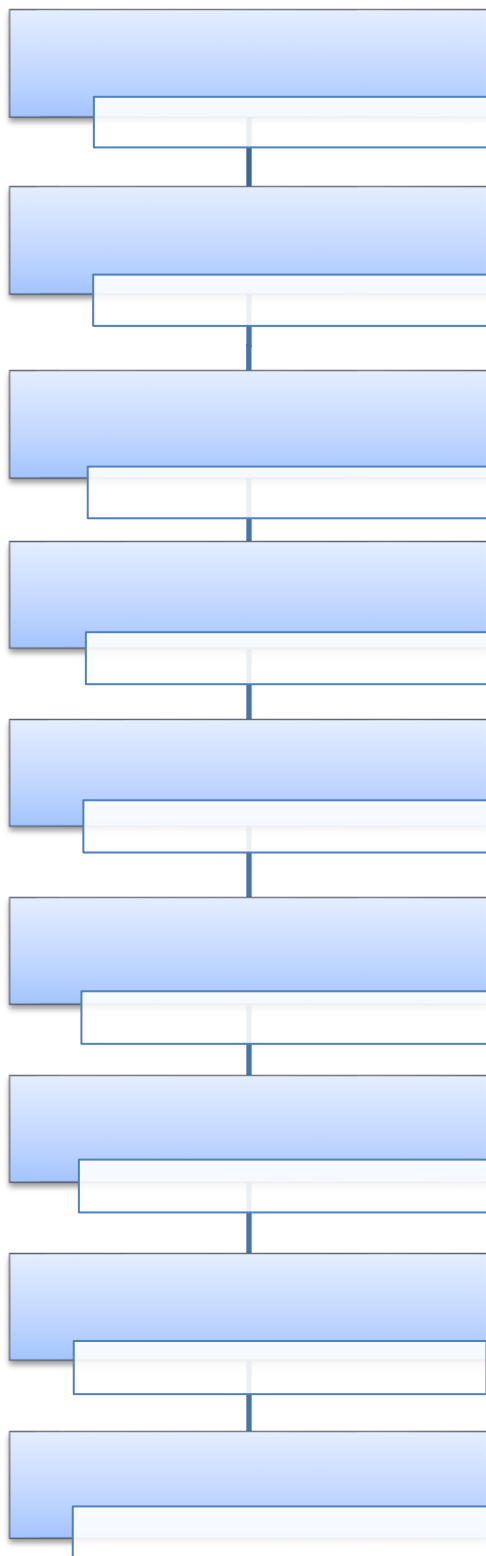
Instructions

1. Using the chart on the following page (or the design-you-own page after that), identify the individuals and entities/organizations in your labor chain of command.

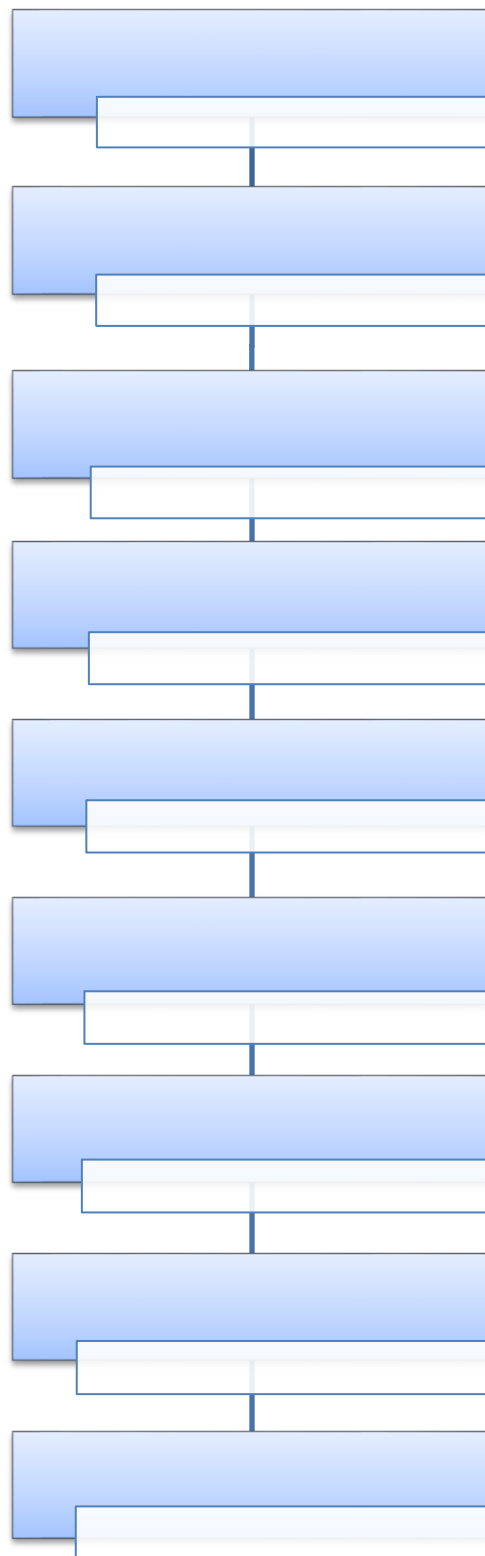
Potential People in Labor Chain

- International/state union president
- District vice president
- Local union president
- Local union vice president
- Shop steward / shift representative

Management Chain of Command



Labor Chain of Command



Fire Service Labor/Management Relations

Activity 4-1 / 4-2

Management Chain of Command
(design your own)

Labor Chain of Command
(design your own)

Legislation (Rights and Restrictions)

Labor Laws

Federal Labor/Management Legislation

Railway Labor Act (1926)

Other Names	RLA
Authority	Federal
Overview	<ul style="list-style-type: none">• Response to decades of railroad labor unrest, including widespread and often violent work stoppages• Addressed issues not covered by the Transportation (Esch-Cummins) Act (1920)• First federal law guaranteeing the right of workers to organize and join unions and elect representatives without employer coercion or interference
Rights and/or Restrictions	<ul style="list-style-type: none">• Includes a policy statement and provisions designed to avoid or delay interruption to commerce by a strike• Ensures unhindered right of employees to join a labor union (added 1934)• Provides independence or organization by both parties to carry out RLA purposes• Assists in prompt, orderly dispute settlements regarding pay, work rules, or working conditions• Assists in prompt, orderly dispute settlement regarding grievances or interpretation/application of existing contracts regarding pay, work rules, or working conditions
Audience (applies to)	<ul style="list-style-type: none">• Freight and commuter railroads• Airlines (added in 1936)• Companies directly or indirectly controlled by carriers performing services related to freight or passenger transportation• Employees of said railroads, airlines, and companies

National Labor Relations Act (1935)

Other Names	<ul style="list-style-type: none">• NLRA• Wagner Act
Authority	Federal

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

Overview	<ul style="list-style-type: none">• One of most important legacies of Roosevelt's New Deal• Reversed years of federal opposition to organized labor• Contributed to dramatic surge in union membership<ul style="list-style-type: none">◦ Especially women (by end of 1930s, 800,000 women in unions, three times more than in 1929)• Made labor an influence in political and economic decisions
Rights and/or Restrictions	<ul style="list-style-type: none">• Guarantees employees' right to organize, form unions, and bargain collectively with employers• Assures workers an option to belong to a union or not• Promotes collective bargaining as foundation to peaceful labor/management relations• Created the National Labor Relations Board (NLRB) to<ul style="list-style-type: none">◦ Arbitrate deadlocked labor-management disputes◦ Guarantee democratic union elections◦ Penalize unfair labor practices by employers
Audience (applies to)	<ul style="list-style-type: none">• All employers involved in interstate commerce except airlines, railroad, agriculture, and government (authority for these groups comes from other legislation)

Taft-Hartley Act (1947)

Other Names	Labor Management Relations Act
Authority	Federal
Overview	<ul style="list-style-type: none">• Restricts power and activities of labor unions• Amended the National Labor Relations (Wagner) Act (1935)• Proposed and supported by large U.S. business interests• Reflects Congress' perception that union conduct also needed correction
Rights and/or Restrictions	<ul style="list-style-type: none">• Allows the president to appoint a board of inquiry to investigate union disputes when he believes a strike would endanger national health or safety, and obtain an 80-day injunction to stop the continuation of a strike• Declares all closed shops illegal• Permits union shops only after a majority of employees vote for them• Forbids jurisdictional strikes and secondary boycotts• End the check-off system whereby the employer collects union dues• Forbids unions from contributing to political campaigns• Requires union leaders to take an oath stating they are not communists
Audience (applies to)	<ul style="list-style-type: none">• Labor unions associated with public and private employers

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

Labor Management Reporting and Disclosure Act (1959)

Other Names	<ul style="list-style-type: none">• LMRDA• Landrum-Griffin Act
Authority	Federal
Overview	<ul style="list-style-type: none">• Enacted in response to widely publicized reports of union corruption• Strengthened the Taft-Hartley Act• Opposed by organized labor• Allowed U.S. Department of Labor oversight and review of union elections
Rights and/or Restrictions	<ul style="list-style-type: none">• Regulates unions' internal affairs and their officials' relationships with employers• Requires unions to hold secret elections for local union offices on a regular basis• Provides for review by U.S. Department of Labor of union members' claims of improper election activity
Audience (applies to)	<ul style="list-style-type: none">• Public and private employers and employees

State Labor/Management Legislation

Meyers-Milias-Brown Act (1968)

Other Names	MMBA
Authority	State (California)
Overview	<ul style="list-style-type: none">• Signed into law by former union president, Governor Ronald Reagan• California was second state to allow public sector collective bargaining<ul style="list-style-type: none">◦ Wisconsin (first, in 1959) recently drew national attention with sharp curtailment of rights in 2011
Rights and/or Restrictions	<ul style="list-style-type: none">• First California law giving public sector (city and county) employees collective bargaining rights• Promotes communication and provides dispute resolution between labor/management• Regulates communications regarding wages, hours, and other employment terms and conditions• Establishes recognition rights for public employee unions• Allows for local rules to govern employment relations if rules conform to MMBA
Audience (applies to)	<ul style="list-style-type: none">• Public sector employers/employees

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

Ralph C. Dills Act (1977)

Other Names	<ul style="list-style-type: none">• Dills Act• State Employer-Employee Relations Act
Authority	State (California)
Overview	<ul style="list-style-type: none">• Formalized collective bargaining for state employees
Rights and/or Restrictions	<ul style="list-style-type: none">• Sets up a process for determining wages, hours, and terms and conditions of employment for rank and file and supervisory employees<ul style="list-style-type: none">○ Managers and confidential employees are provided no bargaining rights• Rank and file employees have the right to:<ul style="list-style-type: none">○ Form, join, be represented by, and participate in employee unions○ Not join an employee union○ Meet and confer in good faith rights (full bargaining rights); both sides must exchange and fully consider all reasonable proposals with the hopes of reaching a final agreement• Supervisors are provided representational rights but not full bargaining rights; they have the right to join unions and meet and discuss proposals with management• After considering union proposals and counterproposals management may implement a policy or course of action• Set up the Public Employment Relations Board (PERB) as the “watch dog” agency to oversee compliance with the provisions of the Dills Act
Audience (applies to)	<ul style="list-style-type: none">• State of California employees

Disciplinary Issues and Court Cases that Contributed to the Firefighter Procedural Bill of Rights

Garrity Rights

Court Case	<ul style="list-style-type: none">• <i>Garrity v. New Jersey</i> (385 U.S. 493) in 1967
Overview	<ul style="list-style-type: none">• Public employees have constitutional rights applicable in their employment that may not apply to private employees
Rights and/or Restrictions	<ul style="list-style-type: none">• Statements obtained in an investigatory interview under threat of termination from public employment can not be used as evidence against the employee in subsequent criminal proceedings• If, however, the employee refuses to answer questions after he or she has been assured that their statements cannot be used against them in a subsequent criminal proceeding, the refusal to answer questions thereafter may lead to the imposition of discipline for insubordination

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

	<ul style="list-style-type: none">• While the statements made may not be used against the employee in a subsequent criminal proceeding, they can still form the basis for discipline on the underlying work-related charge<ul style="list-style-type: none">○ FBOR took this one step further and requires a written offer of immunity from criminal prosecution
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Weingarten Rights

Court Case	<ul style="list-style-type: none">• <i>NLRB vs. Weingarten, Inc.</i> (420 U.S. 251) in 1975
Overview	
Rights and/or Restrictions	<ul style="list-style-type: none">• Employees have the right to have union representation at investigatory interviews• Employees do not have the right to union representation if the meeting is only to tell them about discipline that has already been decided or to give other direction<ul style="list-style-type: none">○ Management is not required to inform an employee of his/her Weingarten rights; it is the employee's responsibility to know and request

Skelly Rights

Court Case	<ul style="list-style-type: none">• <i>Skelly v. State Personnel Board</i> (15 Cal. 3d 194) in 1975
Overview	<ul style="list-style-type: none">• Dr. Skelly, a public employee, was terminated from employment with the State of California• The California Supreme Court determined he was deprived of his due process right to pre-disciplinary discovery; the "materials upon which the action is based"
Rights and/or Restrictions	<ul style="list-style-type: none">• A "Skelly Hearing" allows an employee to respond to allegations prior to the imposition of any actual disciplinary action

Loudermill Rights

Court Case	<ul style="list-style-type: none">• <i>Cleveland Board of Education v. Loudermill</i> (470 U.S. 532) of 1985
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Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

Overview	<ul style="list-style-type: none">• Employees with a property interest in their jobs are entitled to certain due process rights prior to termination• Purpose of a "Loudermill hearing" is to provide an employee an opportunity to present their side of the story before the employer makes a decision on discipline• Underlying principle is that because dismissals often involve factual disputes, a hearing provides the employee an opportunity to explain and refute any conclusions the employer reached which caused the employee's discharge• Applicable in instances when the employee may have a loss of pay, such as suspension, termination, or demotion
Rights and/or Restrictions	<ul style="list-style-type: none">• Employees with a property interest in their jobs are entitled to certain due process rights prior to termination<ul style="list-style-type: none">○ Oral or written notice of the charges against the employee○ An explanation of the employer's evidence○ An opportunity to be heard in response to the proposed action

Lybarger Rights

Court Case	<ul style="list-style-type: none">• <i>Lybarger v. City of Los Angeles</i> (40 Cal. 3d 822) in 1985
Overview	<ul style="list-style-type: none">• When a supervisor/manager interrogates an employee and (a) it appears that the employee may be charged with a criminal offense as a result of his misconduct, or the worker refuses to answer questions on the ground that the answers may be <i>criminally</i> self-incriminating, the questioning must be preceded by a "Lybarger admonishment"
Rights and/or Restrictions	<ul style="list-style-type: none">• Although the employee has the right to remain silent (Fifths Amendment) and not incriminate himself/herself<ul style="list-style-type: none">○ His or her silence could be deemed as insubordination, leading to administrative discipline, and○ Any statement made under the compulsion of the threat of such discipline (i.e., incriminating statements) can be used for administrative purposes, but cannot be used against the employee during any subsequent criminal proceeding

Spielbauer Rights

Court Case	<ul style="list-style-type: none">• <i>Spielbauer v. County of Santa Clara</i> (45 Cal. 4th 704) in 2009
Overview	<ul style="list-style-type: none">• Related to Garrity rights

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

Rights and/or Restrictions	<ul style="list-style-type: none">• A public employee may be compelled, by threat of job discipline, to answer questions about the employee's job performance, so long as the employee is not required, on pain of dismissal, to waive the constitutional protection against criminal use of those answers
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Firefighter Procedural Bill of Rights (2007)

Firefighter Procedural Bill of Rights (2007)

Other Names	<ul style="list-style-type: none">• FBOR• California Government Code, Section 3250-3262
Authority	State (California)
Overview	<ul style="list-style-type: none">• Largely modeled on the Public Safety Officers Procedural Bill of Rights Act, first enacted in 1976• Establishes specific requirements for administrative investigations and discipline of firefighters• Gives California firefighters the fairest, most extensive privacy protection enjoyed by any public employee in the state
Rights and/or Restrictions	<ul style="list-style-type: none">• Requires that interrogation be conducted at reasonable hours, with compensation, and without verbal or physical threats or extortion• Requires that individuals be advised of their rights• Secures the right of representation in any and all interrogations• Prohibits unwarranted search of personal property or forced submission to polygraph testing• Authorizes recording any interrogation by employer or employee, and gives each access to the others recordings and transcripts• Declares that statements made under duress can't be used in judicial proceedings• Requires that appeals process conform to state Administrative Procedures Act<ul style="list-style-type: none">○ Permits appeals procedures that agreed upon between labor organizations and fire agencies as a part of the collective bargaining process (2010 amendment)
Audience (applies to)	<ul style="list-style-type: none">• State and local government professional fire fighters (up to and including the fire chief)• Excludes private, probationary, inmate, and volunteer fire fighters

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

Employment Equality Laws

Federal Employment Legislation

Fair Labor Standards Act (1938)

Other Names	<ul style="list-style-type: none">• FLSA• Wages and Hours Bill
Authority	Federal
Overview	<ul style="list-style-type: none">• Intended to stimulate job creation
Rights and/or Restrictions	<ul style="list-style-type: none">• Establishes minimum wage<ul style="list-style-type: none">◦ Covered nonexempt workers are entitled to a minimum wage of not less than \$7.25 per hour (effective July 24, 2009)• Establishes 40-hour workweek and 8-hour workday<ul style="list-style-type: none">◦ Employees engaged in fire protection or law enforcement may be paid overtime on a “work period” basis (known as 7(K) work exemption)• Establishes overtime pay<ul style="list-style-type: none">◦ A rate not less than one and one-half times the regular rate of pay required after 40 hours of work in a workweek• Establishes recordkeeping standards<ul style="list-style-type: none">◦ Employers must display an official poster outlining the requirements of the FLSA◦ Employers must keep employee time and pay records• Establishes guidelines for employing minors<ul style="list-style-type: none">◦ Ensure that work is safe and does not jeopardize their health, well-being, or educational opportunities
Audience (applies to)	<ul style="list-style-type: none">• Private sector employees• Federal, state, and local government employees

Equal Pay Act (1963)

Other Names	EPA
Authority	Federal
Overview	<ul style="list-style-type: none">• Amended Fair Labor Standards Act (1938)• Intended to abolish wage disparity based on sex• Signed into law by John F. Kennedy as part of New Frontier Program

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

Rights and/or Restrictions	<ul style="list-style-type: none">• Prohibits discrimination on account of sex in the payment of wages by employers• Employers may not pay lower wages to employees of one sex than it pays to employees of the other sex, for employees within the same establishment for equal work at jobs that require equal skill, effort, and responsibility, and that are performed under similar working conditions
Audience (applies to)	<ul style="list-style-type: none">• Private sector employees• Federal, state, and local government employees• Until a 1972 amendment, EPA did not cover persons employed in an executive, administrative, or professional capacity, or as an outside salesman

Civil Rights Act (1964)

Other Names	None
Authority	Federal
Overview	<ul style="list-style-type: none">• Nation's landmark civil rights legislation• Counteracted individual states allowing unfair treatment of minorities and continued segregation in public facilities after passage of the 13th, 14th, and 15th amendments• Enforcement powers were weak at first but supplemented in later years• Didn't end discrimination but opened the door to progress
Rights and/or Restrictions	<ul style="list-style-type: none">• Outlaws discrimination on the basis of race, color, religion, sex, or national origin• Guarantees equal voting rights by removing registration requirements and procedures biased against minorities and the underprivileged• Prohibits segregation or discrimination in places of public accommodation involved in interstate commerce• Bans discrimination by trade unions, schools, and employers involved in interstate commerce or doing business with the federal government<ul style="list-style-type: none">○ Applies to discrimination based on sex○ Established Equal Employment Opportunity Commission to enforce• Calls for desegregation of public schools• Broadens duties of the Civil Rights Commission• Assures nondiscrimination in the distribution of funds under federally assisted programs
Audience (applies to)	<ul style="list-style-type: none">• Everyone

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

Americans with Disabilities Act (1990)

Other Names	ADA
Authority	Federal
Overview	<ul style="list-style-type: none">• Signed into law by George H. W. Bush• Prohibits discrimination• Intended to prohibit discrimination and guarantee that people with disabilities have the same opportunities as everyone else to participate in mainstream American life• Modeled after Civil Rights Act of 1964• Addresses five areas:<ul style="list-style-type: none">○ Title I – Employment○ Title II – Public Entities (and Public Transportation)○ Title III – Public Accommodations (and Commercial Facilities)○ Title IV – Telecommunications○ Title V – Miscellaneous Provisions
Rights and/or Restrictions	<ul style="list-style-type: none">• A “covered entity” shall not discriminate against “a qualified individual with a disability” regarding job application procedures, hiring, advancement and discharge, job training, or any other terms, conditions, and privileges of employment• Requires “covered entities” to provide reasonable accommodations to applicants and employees with disabilities• An employee or applicant who currently engages in the illegal use of drugs is not considered qualified when a “covered entity” takes adverse action based on such use
Audience (applies to)	<ul style="list-style-type: none">• Individuals with a disability that substantially limits one or more major life activity, those with a history of such impairment, and those perceived by others as having such impairment• Any “covered entity” employing such individuals

State Employment Legislation

Fair Employment and Housing Act (1959)

Other Names	FEHA
Authority	State (California)

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

Overview	<ul style="list-style-type: none">• Offers protections similar to, and more effective than, those available under the equivalent federal laws
Rights and/or Restrictions	<ul style="list-style-type: none">• Prohibits harassment and discrimination in employment because of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, mental and physical disability, medical condition, age, pregnancy, denial of medical and family care leave, or pregnancy disability leave• Prohibits retaliation for protesting illegal discrimination related to one of these categories• Prohibits retaliation for reporting patient abuse in tax supported institutions
Audience (applies to)	<ul style="list-style-type: none">• All employers/employees in California

Employment Benefit Laws

Federal Employment Benefits Legislation

Family Medical Leave Act (1993)

Other Names	FMLA
Authority	Federal
Overview	<ul style="list-style-type: none">• Intended to balance the demands of the workplace with the needs of families, promote stability and economic security of families, and promote national interests in preserving family integrity
Rights and/or Restrictions	<ul style="list-style-type: none">• Entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave
Audience (applies to)	<ul style="list-style-type: none">• Covered employers<ul style="list-style-type: none">• Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer• Public agency, including a local, state, or Federal government agency (regardless of number of employees)• Public or private elementary or secondary school (regardless of number of employees)• Employees of covered employers meeting U.S. Department of Labor eligibility criteria

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

Health Insurance Portability and Accountability Act (1996)

Other Names	HIPPA
Authority	Federal
Overview	<ul style="list-style-type: none">• Intended to provide health care security for employees while reducing health care fraud and abuse, resulting in cost savings for all parties
Rights and/or Restrictions	<ul style="list-style-type: none">• Provides ability to transfer and continue health insurance coverage for workers when they change or lose jobs• Mandates industry-wide standards for health care information on electronic billing and other processes• Requires the protection and confidential handling of protected health information
Audience (applies to)	<ul style="list-style-type: none">• Employees meeting eligibility criteria

Affordable Care Act (2010)

Other Names	<ul style="list-style-type: none">• ACA• Patient Protection and Affordable Care Act (PPACA)• ObamaCare
Authority	Federal
Overview	<ul style="list-style-type: none">• A U.S. healthcare reform law intended to expand and improve access to care and curb spending through regulations and taxes
Rights and/or Restrictions	<ul style="list-style-type: none">• Requires insurance companies to cover all applicants within new minimum standards and offer the same rates regardless of pre-existing conditions or sex• Requires that most Americans obtain and maintain health insurance, or an exemption, each month or pay a tax penalty• Removes “pre-existing conditions” as a disqualifier or hurdle for obtaining private health insurance
Audience (applies to)	<ul style="list-style-type: none">• All eligible Americans not already receiving health care insurance coverage from employers

State Employment Benefits Legislation

California Public Employees Pension Reform Act (2013)

Other Names	PEPRA
Authority	State (California)

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

Overview	<ul style="list-style-type: none">Changes the way CalPERS (California Public Employees’ Retirement System) applies retirement and health benefits and places compensation limits on members												
Rights and/or Restrictions	<ul style="list-style-type: none">Creates a new defined benefit formula of 2% at age 62 for all new miscellaneous (non-safety) members with an early retirement age of 52 and a maximum benefit factor of 2.5% at age 67Creates three new defined benefit formulas for new safety members with a normal retirement age at 50 and a maximum benefit factor at age 57Requires that new safety members be provided with the new formula that is the closest to the formula offered to classic members of the same classification and that provides a lower benefit at 55 years of age than the formula offered to classic members <table><tr><td></td><td>Normal Requirement Age</td><td>Maximum Benefit Factor</td></tr><tr><td>Basic Formula</td><td>1.426% at Age 50</td><td>2% at Age 57+</td></tr><tr><td>Option Plan 1</td><td>2% at Age 50</td><td>2.5% at Age 57+</td></tr><tr><td>Option Plan 2</td><td>2% at Age 50</td><td>2.7% at Age 57+</td></tr></table> <ul style="list-style-type: none"><ul style="list-style-type: none">An employer and its employees may agree by MOU to place new employees (hired after the date of the MOU) in a lower tier of safety benefits, but this change cannot be imposed through impasse proceduresCaps the annual salary that can be used to calculate final compensation for all new members, excluding judges, at \$113,700 (2013 Social Security Contribution and Benefit Base) for employees that participate in Social Security or \$136,440 (120% of the 2013 Contribution and Benefit Base) for those employees that do not participate in Social SecurityProhibits a public employer from offering a plan of replacement benefits for new employees who are subject to the federal benefit limitations under Internal Revenue Code section 415(b)Prohibits a public employer from offering a replacement benefit plan for any employee if the employer does not offer a plan of replacement benefits prior to January 1, 2013, or to any additional employee group that was not covered by an existing plan prior to January 1, 2013Adds a calculation for a safety member who qualifies for an Industrial Disability Requirement (IDR) that may result in a higher benefit than 50% of salary (in addition to the current calculation options for the IDR benefit for a safety member), in effect until January 1, 2018Sets new member’s initial contribution rate to at least 50% of the total normal cost rate of the current contribution rate of similarly situated employees, whichever is greater, except where it would impair an existing MOU (applies to public agencies, school employers, the CSU, judicial branch)Prohibits Employer Paid Member Contributions (EPMC) for new members		Normal Requirement Age	Maximum Benefit Factor	Basic Formula	1.426% at Age 50	2% at Age 57+	Option Plan 1	2% at Age 50	2.5% at Age 57+	Option Plan 2	2% at Age 50	2.7% at Age 57+
		Normal Requirement Age	Maximum Benefit Factor										
	Basic Formula	1.426% at Age 50	2% at Age 57+										
	Option Plan 1	2% at Age 50	2.5% at Age 57+										
	Option Plan 2	2% at Age 50	2.7% at Age 57+										

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

	<p>employed by public agencies, school employers, the judicial branch or CSU</p> <ul style="list-style-type: none">• Requires state employees (excluding new CSU members and new judicial branch members) to pay the contribution rates determined through bargaining and/or as provided by statute<ul style="list-style-type: none">○ Beginning on January 1, 2018, public agency and school employers that have collectively bargained in good faith and have completed impasse procedures, including mediation and fact finding, have the ability to unilaterally require classic members to pay up to 50% of the total normal cost of their pension benefit. However, the employee contribution may only be increased up to an 8% contribution rate for miscellaneous members, a 12% contribution rate for local police officers, local firefighters, and county peace officers, or an 11% contribution rate for all other local safety members.• Permits public agencies and their employees to agree to share the cost of the employer contribution with or without a change in benefit<ul style="list-style-type: none">○ Allows cost-sharing agreements to differ by bargaining unit or for classifications of employees subject to different benefit levels as agreed to in an MOU○ Permits cost sharing of the employer costs for non-represented employees as approved in a resolution passed by the public agency• Closes Legislators' Retirement System (LRS) to new members• Prohibits employers from providing a more advantageous health benefit vesting schedule to certain individuals than it does for other public employees• Prohibits purchase of Additional Retirement Service Credit (ARSC)• Prohibits public employers from granting retroactive pension benefit enhancements that apply to service performed prior to the date of the enhancement• Prohibits pension holidays, requiring the combined employer and member contributions, in any fiscal year, not be lower than the total year's normal cost• Defines the term "pensionable compensation"• Provides that final compensation means the highest average annual pensionable compensation earned by a member during a period of at least 36 consecutive months, or three school years, as applicable (new members)• Prohibits a public employer from adopting a final compensation period of less than three years for members currently subject to a three-year final compensation period (classic members)• Requires current and future public officials and employees to forfeit certain specified pension and related benefits if they are convicted of a felony in carrying out their official duties, in seeking an elected office or
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Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

	<p>appointment, or in connection with obtaining salary or pension benefits, subject to certain requirements</p> <ul style="list-style-type: none">• Provides that a CalPERS retiree cannot serve, be employed by, or be employed through a contract directly by a CalPERS employer unless he or she either reinstates or his or her employment satisfies specific PEPPRA conditions• Requires CalPERS (for plans it administers) to define a “significant increase” in actuarial liability due to increased compensation paid to a non-represented employee<ul style="list-style-type: none">○ Also directs the Board to implement program changes to ensure that a public agency creating a significant increase in actuarial liability bears the increased cost associated with that liability• Closes Alternative Retirement Program (ARP) to new members, effective July 1, 2013
Audience (applies to)	<ul style="list-style-type: none">• Public employees enrolled in CalPERS after January 1, 2013• Excludes public employees enrolled in CalPERS prior to January 1, 2013, who are considered “classic” members and retain existing benefits for future service with same employer

Additional Laws

Federal Legislation

United States Constitutional Amendments (1791-present)

Other Names	Bill of Rights (amendments 1-10)
Authority	Federal
Overview	<ul style="list-style-type: none">• Amendments add to the Constitution specific guarantees of personal freedoms and rights, clear limitations on the government's power in judicial and other proceedings, and explicit declarations that all powers not specifically delegated to Congress by the Constitution are reserved for the states or the people
Rights and/or Restrictions	<ul style="list-style-type: none">• 1st Amendment: “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances”• 4th Amendment: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized”• 5th Amendment: “No person shall be held to answer for a capital, or

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

	<p>otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation”</p> <ul style="list-style-type: none">• 6th Amendment: “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence [sic].”• 14th Amendment: Addressing citizenship and civil rights (adopted 1868)<ul style="list-style-type: none">○ Citizenship clause○ Privileges and immunities clause○ Due process clause○ Equal protection clause
Audience (applies to)	<ul style="list-style-type: none">• United States citizens and anyone within United States territories

Freedom of Information Act (1966)

Other Names	<ul style="list-style-type: none">• FOIA• Public Information Act of 1966• Public Information Availability
Authority	Federal
Overview	<ul style="list-style-type: none">• Extracted from its original home in the Administrative Procedures Act (Section 3) of 1946, but people were concerned that it was being used more to withhold rather than disclose information so Congress created a stand-alone act• Signed into law by Lyndon B. Johnson (despite his misgivings)• Gives people the right to access information from the federal government• Undergone a number of amendments since enactment

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

Rights and/or Restrictions	<ul style="list-style-type: none">• Allows for the full or partial disclosure of previously unreleased information and documents controlled by the United States government• Defines agency records subject to disclosure• Outlines mandatory disclosure procedures• Grants nine exemptions to the statute to protect against disclosure of information which would substantially harm national defense or foreign policy, individual privacy interests, business proprietary interests, and efficient operation of government functions
Audience (applies to)	<ul style="list-style-type: none">• Everyone

State Legislation

California Penal Code (1872)

Other Names	N/A
Authority	State (California)
Overview	<ul style="list-style-type: none">• The basis for the application of criminal law in the state of California• Originally enacted in 1872 as one of four original California Codes• Has been substantially amended and revised over time• Divided into six “Parts”<ul style="list-style-type: none">○ Part 1<ul style="list-style-type: none">▪ Definitions of legal terms▪ Crimes against the state (like treason)▪ State court system and crimes that can be committed within it (like perjury)▪ Violent crimes▪ Offenses against public morals and decency▪ Crimes against public health and safety▪ Crimes against public peace▪ Crimes against public revenue▪ Crimes against property▪ “Malicious mischief” (including vandalism and trespassing)▪ “Miscellaneous Crimes”▪ General provisions▪ Rights of victims and witnesses of crimes○ Part 2 codifies the state's criminal procedure system○ Part 3 codifies statutes governing the state's corrections system○ Part 4 codifies statutes governing criminal investigations, prison officer training, police officer training, crime control, crime prevention, and gun control○ Part 5 authorizes the California Peace Officers Memorial

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

	<ul style="list-style-type: none">Foundation to establish and maintain a memorial to peace officers on the grounds of the state Capitol with private funds<ul style="list-style-type: none">Part 6 codifies statutes dealing with the management of weaponsCalifornia's drug laws are not in the Penal Code, but in a separate enactment, the California Health and Safety Code<ul style="list-style-type: none">Section 11377-11382.5Provisions affecting motorists, motor vehicles, and traffic matters are contained in the California Vehicle Code
Rights and/or Restrictions	<ul style="list-style-type: none">See individual code sections
Audience (applies to)	<ul style="list-style-type: none">Residents of California

Administrative Procedures Act (1945)

Other Names	APA
Authority	State (California)
Overview	<ul style="list-style-type: none">Establishes rulemaking procedures and standards for California state agenciesEstablished the Office of Administrative Law (OAL)Intended to reduce number and complexity of administrative regulations
Rights and/or Restrictions	<ul style="list-style-type: none">Allows public participation in the adoption of state regulations in order to ensure that the regulations are clear, necessary, and legally validAllows any interested person (not limited by statute) to petition a state agency to change a regulation<ul style="list-style-type: none">Adoption of a new regulationAmendment or repeal of an existing regulationAllows agencies to adopt new regulations within their scope of authority and consistent with state law<ul style="list-style-type: none">Where state or federal regulations conflict with a regulation, state or federal regulations supersede
Audience (applies to)	<ul style="list-style-type: none">"Any interested person"

California Public Records Act (1968)

Other Names	CPRA
Authority	State (California)

Fire Service Labor/Management Relations

Legislation (Rights and Restrictions)

Overview	<ul style="list-style-type: none">• Passed in 1968, summarized and clarified in 2004• Modeled after the federal Freedom of Information Act (1966)• Intended to safeguard the accountability of government to the public• “Access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.” (CA Gov't Code § 6250)• Public records broadly defined to include "any writing containing information relating to the conduct of a public's business prepared, owned, used or retained by any state or local agency regardless of physical form or characteristic” (CA Gov't Code § 6252(e))
Rights and/or Restrictions	<ul style="list-style-type: none">• Discloses governmental records to the public, upon request, unless there is a specific reason not to do so• Provides for a general balancing test by which an agency may withhold records from disclosure if it can establish that the public interest in nondisclosure clearly outweighs the public interest in disclosure• Local governments must comply with requests for publicly available documents, and requires local governments to pay the costs of those requests in full (2013)
Audience (applies to)	<ul style="list-style-type: none">• Everyone

Activity 5-1: Labor Laws

Format: Individual/Small Group

Time Frame: 0:30

Description

This activity provides students with an opportunity to utilize the Fire Fighters Bill of Rights.

Instructions

1. Using scenarios (chosen by instructor) from the *Manager's Guide to the California Firefighter's Bill of Rights Act*, work in groups to research and present solutions.
2. Share your findings with the group.

Scenarios and Solutions

Activity 6-1: Contract Comparison

Format: Individual/Small Group

Time Frame: 0:30

Description

This activity provides students with an opportunity to evaluate the results to different bargaining processes.

Instructions

1. Compare two fire department labor contracts. (Provide support for your answers to each question.)
 - How do the management rights compare?
 - Is one contract stronger than the other?
 - What would you recommend changing if you sat on the union side of the table?
 - What would you recommend changing if you sat on the management side of the table?
2. Share your findings with the group.

Contract Comparison

	Contract A	Contract B
Strengths		

Fire Service Labor/Management Relations

Activity 6-1

Challenges		
Recommendations (Labor Perspective)		
Recommendations (Management Perspective)		

Sample Grievance Information Form

**APPENDIX B:
GRIEVANCE
INFORMATION FORM**

Local _____ Union _____

Who has grievance?

Name _____ Department _____ Badge _____

Job Class and Title _____ Shift _____

Department Seniority _____ Shift Seniority _____

Where did it happen?

Location in department (if necessary) _____

When did it happen?

Date(s) _____ Time _____ Shift _____

What happened? Describe events, including:

Member's story and explanation _____

Management's position _____

Other people involved, including their names, job titles, seniority, shift and additional useful information

Witnesses and their stories _____

Background information, such as previous accusations, reprimands and events that relate to this problem

Why is it a grievance?

Violation of contract clause(s)

Article _____ Section _____

_____	_____
_____	_____
_____	_____

Past Practice (describe fully)

Unfair Treatment (attach paper with detailed description of evidence)

Demand (what should management do so that the member does not lose rights or benefits?)

Sample Grievance Form

**APPENDIX C:
GRIEVANCE FORM**

Employee's Name: _____

Employee's Job Title/Classification: _____

Department: _____

Division: _____

Grievance Presented To: _____

STATEMENT OF GRIEVANCE: (state facts, witnesses, work assignment)

☐ See attached for further information

RULE, POLICY, AGREEMENT, ETC. VIOLATED

☐ See attached for further information

SPECIFIC REMEDY OR CORRECTIVE ACTION REQUESTED

☐ See attached for further information

Signature: _____ Date: _____

(Employee)

Signature: _____ Date: _____

(Party Receiving Grievance)

Activity 7-2: Individual Action Plan

Format: Individual

Time Frame: 0:30

Description

This activity provides students with an opportunity to develop an action plan to improve labor/management partnerships within their agency or organization.

Instructions

1. Develop an action plan to improve labor/management partnerships in your agency or organization.

Questions to Consider

- What are current issues in the fire service impacting my agency/organization?
- What goals does labor have in addressing these issues?
- What goals does management have in addressing these issues?
- How are these goals similar or different?
- What steps can you take to align labor/management goals to best serve the community?
- What will you do when you return to initiate a positive labor/management relationship?

Brainstorming

Action Plan

Purpose: _____

Goals: _____

Results/Accomplishments:

Actions Steps: What do you plan to do?

Responsibility: Who will do it?

Timeline: When will it be done?

Resources: What do you need to accomplish it?

Obstacles: What might slow you down?

Action Steps	Responsibility	Timeline	Resources	Obstacles

Reference and Source Materials

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- Lawrence Bennett
- Brady Fire
- ISBN 978-0131552883

Going Public: The Role of Labor-Management Relations in Delivering Quality Government Services, 1st edition (2003)

- Jonathan Brock and David B Lipsky (editors)
- ILR Press
- ISBN 978-0913447864

Labor Relations for the Fire Service (2012)

- Paul J Antonellis Jr.
- Fire Engineering
- ISBN 978-1-59370-284-7

Labor Relations in the Public Sector, 5th edition (2014)

- Richard C Kearney & Patrice M Mareschal
- CRC Press
- ISBN 978-146657-9521

Legal Considerations for Fire & Emergency Services, 3rd edition (2014)

- J Curtis Varone
- Fire Engineering
- ISBN 978-1-59370-347-9

Manager's Guide to the Firefighter Bill of Rights Act (2008)

- Martin J. Mayer and Kevin Johnson
- Command Strategies Consulting
- ISBN 978-0-9817672-2-2

Pocket Guide to the Fair Labor Standards Act, 3rd edition (2014)

- California Public Employee Relations (CPER)
- Regents of the University of California

Pocket Guide to the Firefighters Procedural Bill of Rights, 3rd edition (2014)

- California Public Employee Relations (CPER)
- Regents of the University of California

Fire Service Labor/Management Relations

Activity 7-2

Pocket Guide to the Meyers-Milius-Brown Act, 15th edition (2014)

- California Public Employee Relations (CPER)
- Regents of the University of California

Pocket Guide to the Public Employees' Pension Reform Act, 1st edition (2013)

- California Public Employee Relations (CPER)
- Regents of the University of California

The Rights of Firefighters, 4th edition (2010)

- Will Aitchison
- LRIS Publications
- ISBN 978-1880607-25-1